

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION**

MELISSA A. RUSSELL,

Plaintiff,

vs.

**SYNCHRONY FINANCIAL;
LOWES COMPANY; WALMART
COMPANY; and BELK
COMPANY,**

Defendants.

CIVIL ACTION NO.

(Removed from the Tuscaloosa
County Circuit, Case No.
CV-2017-218)

NOTICE OF REMOVAL

Defendants Synchrony Financial, more properly identified in this matter as Synchrony Bank (“Synchrony”), Lowe’s Home Centers, LLC, misidentified and misnamed as Lowes Company (“Lowe’s”), Wal-Mart Stores, Inc., misidentified and misnamed as Walmart Company (“Wal-Mart”), and Belk, Inc., misidentified and misnamed as Belk Company (“Belk”), by counsel and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby notices removal of the state court civil action known as *Melissa Russell v. Synchrony Financial, Walmart Co., Lowes Co., and Belk Co.*, Case No. CV-2017-218, from the Circuit Court of Tuscaloosa County, Alabama, to the United States District Court for the Northern District of Alabama, and in support thereof states as follows:

1. On or about July 12, 2017, Plaintiff Melissa Russell (“Plaintiff” or “Russell”) filed a Complaint (the “Complaint”) in the Circuit Court of Tuscaloosa County, Alabama (the “State Court”). (*See generally*, Complaint attached hereto along with the court file as Exhibit 1).

2. On or about July 17, 2017, Plaintiff filed a Motion for Leave to File First Amended Complaint and an Amended Complaint (the “Amended Complaint”) in the Circuit Court of Tuscaloosa County, Alabama (the “State Court”). (*See* Exhibit 1).

3. On July 18, 2017, Synchrony was served with a copy of the Complaint. The remaining Defendants, Lowe’s, Wal-mart and Belk, were all served with a copy of the Amended Complaint sometime thereafter.

4. As set forth more fully below, this case is properly removed to this Court pursuant to 28 U.S.C. § 1441 because Synchrony has satisfied the procedural requirements for removal and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332.

GROUND FOR REMOVAL

A. This Court Has Subject Matter Jurisdiction.

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1441 because the action could have been filed in this Court under 28 U.S.C. § 1332. This is a civil action in which there is complete diversity of

citizenship between Plaintiff and all Defendants, and the amount-in-controversy exceeds the sum of \$75,000, exclusive of costs and interest. *See* Compl., p. 4, Damages (“Plaintiff seeks compensatory damages in the amount of \$60,000 and \$500,000 in punitive damages. . .”).

B. This Court Has Diversity Jurisdiction.

6. Plaintiff avers she is a resident of Tuscaloosa, Alabama. *See* Compl. ¶

1. Upon information and belief, Plaintiff is a citizen of the State of Alabama. *Id.*

7. Neither Synchrony, Lowe’s, Wal-Mart, nor Belk are citizens of Alabama.

8. For purposes of diversity jurisdiction, a corporation’s citizenship is in the state of its incorporation and principal place of business. *Hertz Corp. v. Friend*, 559 U.S. 77, 84-91 (2010). A corporation’s principal place of business is its “nerve center,” i.e., the headquarters where a corporation’s officers direct, control, and coordinate the corporation’s activities. *Id.* at 91.

9. Synchrony is a national banking association with its main office in Utah as designated in its articles of association, and thus, Synchrony is a citizen of Utah. *See Wachovia Bank v. Schmidt*, 546 U.S. 303, 307 (2006); 28 U.S.C. § 1348.¹

¹ While Synchrony Bank is the proper entity, Synchrony Financial is incorporated in Delaware and also maintains its headquarters in Utah.

10. Belk is incorporated in the state of Delaware and its headquarters are located in the state of North Carolina. Thus, Belk is a citizen of the states of Delaware and North Carolina. *See* 28 U.S.C. § 1332(c)(1).

11. Wal-Mart is incorporated in the state of Delaware and its headquarters are located in the state of Arkansas. Thus, Wal-Mart is a citizen of the states of Delaware and Arkansas. *See* 28 U.S.C. § 1332(c)(1).

12. Lowe's is incorporated in the state of North Carolina and its headquarters are located in the state of North Carolina. Thus, Lowe's is a citizen of the state of North Carolina. *See* 28 U.S.C. § 1332(c)(1).

13. As between Plaintiff and Defendants, complete diversity exists.

C. Defendants Have Satisfied The Procedural Requirements For Removal.

14. Synchrony received a copy of the Complaint on July 18, 2017. Therefore, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b) because Defendants are filing Notice of Removal within 30 days of receipt of the initial pleading setting forth the claim for relief upon which such action is based.

15. Copies of "all process, pleadings, and orders" are attached hereto as Exhibit 1 in conformity with 28 U.S.C. § 1446(a). There are no other process, pleadings, or orders served upon the Defendants to date in this case.

16. This Court is the proper division because it embraces the County of Tuscaloosa, Alabama, where Russell's action is pending. *See* 28 U.S.C. §§ 1441 and 1446(a).

17. No previous request has been made for the relief requested herein.

18. Contemporaneously with the filing of this Notice of Removal, Synchrony has filed a copy of same, along with a Notice of filing Notice of Removal, with the clerk of the Circuit Court of Tuscaloosa County, Alabama. Written notice of the filing of this Notice of removal has also been served upon Plaintiff.

19. All defendants consent to the removal of this matter and join in this Notice of Removal.

20. Given that the requirements for diversity of citizenship jurisdiction are satisfied, this case is properly removed.

WHEREFORE, Synchrony, Lowe's Wal-Mart, and Belk respectfully notices the removal of the above-referenced action, originally filed in the Circuit Court for Tuscaloosa, Alabama, to this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

DATED: August 17, 2017

s/ Ryan S. Rummage

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of August, 2017, a true and correct copy of the foregoing was served via first-class U.S. Mail, postage prepaid, upon the following:

Melissa Russell
19 41st Street East
Tuscaloosa, AL 35405
(205) 242-9462

s/ Ryan S. Rummage
OF COUNSEL